

Amendment After Final Rejection
Serial No. 10/028,381

Docket No. US010662

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-15 and 17-20 are pending and stand rejected. Claim 5 has been amended.

Claim 5 stands rejected under 35 USC 112 second paragraph as being indefinite.

Applicant thanks the Examiner for his observation and has amended the claim to remove the objected to language.

For the amendments made to the claim, applicant submits that the rejection has been overcome and respectfully requests that the rejection be withdrawn.

Claims 17-20 stand rejected under 35 USC 102(c) as being anticipated by Kimoto (USP no. 6,792,577), which is the same reference cited in the prior Office Action for rejecting these claims.

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims.

As characterized in applicant's response to the prior Office Action, Kimoto discloses a data distribution method and apparatus and data receiving method and apparatus (see title). Since a receiving system is capable of storing style sheets separately from XML documents and managing them, it is unnecessary to add a style sheet to each XML document body and to transmit it, and thus the amount of the data to be transmitted can be reduced." (see Abstract). Kimoto discloses that the style sheet may have an identification code and the code may be transmitted to the receiving device with the document. The receiving device, having stored the style sheet and the style sheet ID (code), extracts the style sheet identification code from the transmitted message to obtain the format of the message to be presented at the receiving device.

As Kimoto discloses sending the sheet ID to the receiving system, Kimoto fails to disclose that the transmitter transmits the data in the preferred format of the device, as is recited in the claims. Rather the receiving device of Kimoto is able to select the format of the data based on the sheet ID or a user selected format.

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The instant Office Action refers to col. 15, lines 21-32 and col. 16, lines 7-9, for teaching the claim element "said data packet including said data format preference, wherein said data packet is prepared by the device and transmitted over the network to said data repository."

However, a reading of these sections fails to show that Kimoto teaches the specific claim element. Nowhere does Kimoto teach a transmission from the receiving device to the transmitting device with a preferred format (which is assumed by the applicant to be compatible to the style ID of Kimoto).

Rather, Kimoto shows in Figure 9 that the receiving device has the capability to select a style and discloses in col. 14, lines 11-21, that "[t]he fact that a plurality of style sheet IDs are enumerated in the USESTYLE tags means that it is possible for the user to select a desired style sheet from among them. For example, in a case where the receiving system 10 is formed of the general-purpose computer system 30 which provides a GUI environment . . . at the time the broadcast content is introduced to the receiving system 10 . . ."

Kimoto further discloses that the style ID provided by the broadcast system is a default one and not one provided by the user. See, for example, col. 14, line 33-63, which state "[n]ext the user form of a broadcast content according to this embodiment is described in detail. However, it is assumed that the broadcast station 1 as the transmitter first describes program introduction information for introducing program A. This information is hereinafter called a 'program A introduction XML document.' It is assumed that the program A introduction SML document is described in an XML format and has a program introduction style sheet specific to program A and that a dedicated style sheet is specified when the content is transmitted. . . . Also, the broadcast station 1 prepares in advance a style sheet 'broadcast station 1 program introduction style (temporary name) specific to the program A. When a document is created by the SML editor, introduction information of the program A is created by referring to this style sheet." (emphasis added).

Kimoto teaches that the style sheet provided by the broadcast station is prepared in advance and, thus, is not dependent upon information from the receiving device. Kimoto

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fails to teach that the data is transmitted in accordance with a preferred format (style ID) determined by the device.

It is well recognized that to constitute a rejection pursuant to 35 USC §102, i.e., anticipation, all material elements recited in a claim must be found in one unit of prior art.

Kimoto cannot be said to anticipate the present invention, because Kimoto fails to disclose each and every element recited.

At least for this reason, applicant submits that the rejection of independent claim 20 has been overcome and respectfully requests withdrawal of the rejection and allowance of the claim.

With regard the remaining claims these claims ultimately depend from the independent claim 20 and are allowable by virtue of their dependency from an allowable base claim.

Applicant respectfully requests withdrawal of the rejection and allowance of these claims.

Claims 1-15 stand rejected under 35 USC 103(a) as being unpatentable over Kimoto in view of Zintel (USP no. 6,910,068). . The Office Action states that "Kimoto did not explicitly state sending the device format preference upon connection to the network.. However, automatically sending control information upon a device's connection to the network was well known in the art as evidenced by Zintel whose UPnP devices send format information to other devices in the network upon connection to the network.. It would have been obvious to one of ordinary skill . . . to modify the system of Kimoto by adding the ability to send the device format preferences upon connection to the network as provided by Zintel."

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims.

With regard to independent claims 1, 5 and 14, these claims recite subject matter similar to that recited in claim 20. The Office Action refers to Zintel for teaching that it would be obvious to change the principles of Kimoto to include the device transmitting the preferred format (i.e., style ID) to the broadcasting stations.

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However, with regard to obviousness, a claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

The Manual of Patent Examining Procedure (MPEP), §2143.01 Eight Edition, Rev. 2, May 2004 teaches that:

Fact That The Claimed Invention Is Within The Capabilities Of One Of Ordinary Skill In The Art Is Not Sufficient By Itself To Establish *PRIMA FACIE* Obviousness.

"A statement that modification of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references." *Ex parte Levengood* 28 USPQ2d 1300 (Bd. Pat. App. & Int. 1993). MPEP §2143.01, p. 2100-131.

The Office Action fails to show where in the cited references there is some motivation for the device to provide the style ID or preferred embodiment. Accordingly, for at least this reason, the independent claims are not rendered obvious by the cited references

Furthermore:

The Proposed Modification Cannot Change The Principle Of Operation Of A Reference.

"If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious" (*In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)). MPEP §2143.01, p. 2100-132.

In this case, the addition of the teaching of Zintel to that of Kimoto would change the principles of Kimoto as it would require the broadcast device of Kimoto to include a receiving system to decode a style ID and then use this information to format the

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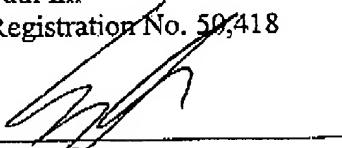
broadcast message. Furthermore, the devices of Kimoto would be changed to transmit a style ID.

For at least these reasons, applicant submits that claims 1-15 are not rendered obvious in view of the cited references as the Office Action has failed to show the where the cited prior art provides motivation to combine the references. Further, if the references were combined, the principles of the Kimoto reference would be altered, as the receiving device would be required to send the ID for processing by the transmitting station.

For all the foregoing, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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